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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,939	12/30/2005	Karl-Heinz Lehmann	66489-082-7	8594

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EXAMINER

WERNER, JONATHAN S

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/562,939	Applicant(s) LEHMANN ET AL.	
	Examiner Jonathan Werner	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/1/06</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 5/1/06 is noted. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Objections

3. Claim 1 is objected to because of the following informalities: the phrase "treatment element" is repeated in line 7. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner does not understand how an instrument holder can form a separate component as claimed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-7, 10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bierbaum et al. (US 5,332,392). In re claims 1-2, Bierbaum discloses a treatment element for the accommodation of dental hand instruments, comprising a base module (6) having connectors (10,11,61) and furthermore comprising a top module (7) including an instrument holder (2), wherein said top module is interchangeable (Figure 2) and can be releasably connected to said base module by hand (column 3, lines 34-36). As to claim 3, the connectors (61) are disposed on the underside of the base module (Figure 3). As to claim 5, the top module (7) is equipped with a separate instrument holder (2; Figure 2). In re claim 6, the top module and instrument holder are adapted for accommodation of instruments having hanging hoses (Abstract). In re claim 7, the top module has a flat receptacle (1) and the instrument holder has docking bays for holding instruments (Figure 2). As to claim 10, the connectors (61) are capable of holding a hanging instrument or holding a hose from the front (Figure 3). As to claim 14, the top module has frame member (19) and an insert which is designed to be received in the frame member (column 3, lines 56-60).

Examiner notes the abundant use of functional language by the Applicant throughout

the claims, i.e. how the connectors are used "for the supply of media to the instruments" in claim 1. Such statements of intended use and other functional statements do not impose any structural limitations on the claims distinguishable over the prior art of record.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bierbaum in view of Doty (US 4,952,146). Bierbaum discloses the dental treatment element as previously described, but fails to disclose the top module is equipped with a control

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panel. Doty, however, teaches a dental treatment element for the accommodation of dental hand instruments which has a top module (16) that comprises a control panel (34). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to include a control panel on the top module of a dental treatment element in order to allow the dentist to easily adjust any settings as taught by Doty.

8. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bierbaum in view of Young (US 5,334,018). Bierbaum discloses the dental treatment element as previously described, but fails to show there are mounted swivel arms or whip arms and that the instrument holder has troughs. Young, however, teaches a dental treatment element which has whip arms and wherein the instrument holder has troughs (Figure 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to mount whip arms to the device and modify the instrument holder to include troughs in order for the dentist to be able to swing the handpiece to a desired position without tangling it during use and to allow the handpiece to be stored when not used, respectively, as taught by Young.

9. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bierbaum in view of Childress (US 4,106,198). As to claim 11, Bierbaum discloses the dental treatment element as previously described, but fails to disclose the use of an instrument removal detector. Childress, however, teaches a control arrangement for a

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handpiece instrument which includes a detector (Abstract). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to include a detector on the treatment element in order to sense the removal of each handpiece instrument from the console as taught by Childress. In re claim 12, Applicant never positively claimed said detector was installed on the base module, though the detector (24a) disclosed by Childress can be displaced anywhere and as to claim 13, the detector is capable of being used with both types of apparatus.

Conclusion

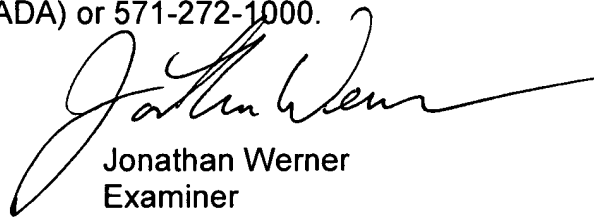
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to included form PTO-892 for all additional pertinent prior art related to dental treatment instruments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Werner whose telephone number is (571) 272-2767. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

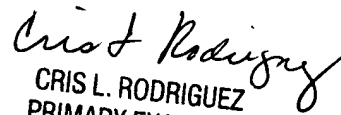
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jonathan Werner
Examiner
TC 3700

7/14/06



CRIS L. RODRIGUEZ
PRIMARY EXAMINER